

Jul 09, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

JONATHON WESLEY BISHOP,

Defendant.

No. 2:20-CR-0051-WFN-1

PROTECTIVE ORDER RE:
COMPUTER FORENSIC REVIEW
PROCEDURES

The Court has received and reviewed the Stipulation Regarding Computer Forensic Review Procedures for Child Pornography Contraband filed by the parties in the above-captioned matter and is fully advised. Accordingly,

IT IS ORDERED that:

1. The parties' Stipulation Regarding Computer Forensic Review Procedures for Child Pornography Contraband, filed July 8, 2020, **ECF No. 29**, is **GRANTED**.

2. 18 U.S.C. § 3509(m) applies to this case, and the Court is required to deny defense requests to copy, photograph, duplicate, or otherwise reproduce material constituting child pornography if the Government makes the material reasonably available to Defendant and provides an ample opportunity for the defense to examine it at a government facility. *See* 18 U.S.C. § 3509(m).

3. In order to comply with 18 U.S.C. § 3509(m), and to allow Defendant the greatest opportunity to prepare an effective defense in preparation for trial in this matter, the Government will make a true forensic, bit-by-bit E01 image of devices and media containing alleged child pornography contraband at issue in the above-referenced case. The Government will make that forensic image reasonably available to Defendant and provide ample opportunity for the defense team to examine it at a government facility in Spokane,

1 Washington. The parties may readdress the Court if there is a need for additional or after-
2 hours access during the course of litigation in the event trial or motion hearings require
3 additional forensic review.

4 4. The defense forensic examination will be conducted in an interview room
5 monitored by closed-circuit television ("CC-TV"), without audio feed. While the TV with
6 non-audio feed will ensure the integrity of FBI space and security of its occupants, the video
7 feed is not of sufficient detail or at an angle that would reveal defense strategy. The
8 Government and its agents expressly agree that no attempt will be made to record any audio
9 from the workstation and that no attempt will be made to observe the defense team's work
10 product or computer monitor screen at any time. The defense expert may review the feed to
11 ensure that defense strategy is not being compromised at any time while conducting the
12 forensic review.

13 5. The defense team¹ shall not make, nor permit to be made, any copies of the alleged
14 child pornography contraband pursuant to this Protective Order and shall not remove any
15 contraband images from the Government facility. The defense expert will be allowed to
16 copy any file that is not contraband and compile a report (without contraband images/videos)
17 documenting the examination on removable media at the discretion of the defense expert.

18 6. The designated defense expert, Jennifer McCann, will leave at the government
19 facility any equipment, including hard drives, which contain child pornography contraband
20 that is identified during forensic evaluation. The parties may readdress this matter with the
21 Court upon notice that the defense intends to retain a different defense expert.

22 7. The government agrees to make available a digital copy of any government trial
23 exhibit that contains contraband, which will be kept in the custody and control of the case
24 agent. Upon reasonable notice by the defense, the case agent will also maintain for trial
25

26 ¹ For purposes of this Protective Order, the term "defense team" refers solely to
27 Defendant's counsel of record ("defense counsel"), Defendant's designated expert ("defense
28 expert"), and a defense investigator.

1 digital copies of any proposed defense exhibit that contains contraband. If the defense team
2 intends to offer, publish, or otherwise utilize any Government or defense exhibit contained
3 on the digital copy maintained by the case agent during trial, the case agent shall assist the
4 defense team in publishing or utilizing the exhibit that contains contraband upon notification
5 by the defense team.

6 The District Court Executive is directed to file this Order and provide copies to
7 counsel.

8 **DATED** this 9th day of July, 2020.

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11 WM. FREMMING NIELSEN
12 SENIOR UNITED STATES DISTRICT JUDGE

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